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c 255 Municipal Franchises Act

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CHAPTER 255

The Municipal Franchises Act**1. In this Act,**Interpre-
tation

- (a) "franchise" includes any right or privilege to which this Act applies;
- (b) "gas" means natural gas, manufactured gas or any liquefied petroleum gas, and includes any mixture of natural gas, manufactured gas or liquefied petroleum gas, but does not include a liquefied petroleum gas that is distributed by a means other than a pipe line;
- (c) "highway" includes a street and a lane;
- (d) "public utility" includes waterworks, natural and other gas works, electric light, heat or power works, steam heating works, and distributing works of every kind. R.S.O. 1950, c. 249, s. 1; 1955, c. 49, s. 1.

2. A municipal corporation shall not enter into or renew any contract for the supply of electrical power or energy to the corporation or to the inhabitants thereof until a by-law setting forth the terms and conditions of the contract has been first submitted to, and has received the assent of the municipal electors in the manner provided by *The Municipal Act*. R.S.O. 1950, c. 249, s. 2.

Assent to
contracts
for supply
of electric
powerR.S.O. 1960,
c. 249

3.—(1) A municipal corporation shall not grant to any person nor shall any person acquire the right to use or occupy any of the highways of the municipality except as provided in *The Municipal Act*, or to construct or operate any part of a transportation system or public utility in the municipality, or to supply to the corporation or to the inhabitants of the municipality or any of them, gas, steam or electric light, heat or power, unless a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted or acquired has been assented to by the municipal electors.

Where assent
required

(2) Subsection 1 does not apply to The Hydro-Electric Power Commission of Ontario.

Hydro
Commission
exempt

(3) Where the trustees of a police village request the council of the township in which the village is situate to grant any

In police
villages

such right with respect to the village, or where the board of trustees of a police village desire to grant such a right, it is a sufficient compliance with subsection 1 if the by-law receives the assent of the municipal electors of the village.

Renewals
and
extensions

(4) This section applies to the renewal or extension of an existing franchise. R.S.O. 1950, c. 249, s. 3.

Consent of
council of
city, when
required

4.—(1) The council of a local municipality shall not grant a franchise upon any highway of the municipality within a radius of five miles of the boundary of any city without notice in writing to the council of the city, and if the council of the city, within four weeks after the receipt of the notice, gives a notice in writing to the council of the local municipality that it objects to the granting of the franchise the approval of the Ontario Municipal Board shall be obtained, and if the council of the city does not give such notice within such time, it shall be deemed to have no objection and the council of the local municipality may grant the franchise with the assent of the municipal electors of the local municipality as provided by section 3. R.S.O. 1950, c. 249, s. 4.

Gas
franchises

(2) Where the franchise referred to in subsection 1 is a gas franchise, the Ontario Energy Board shall take the place of the Ontario Municipal Board for the purposes of this section. 1955, c. 49, s. 2.

Extension
of certain
existing
works not
to be made
without
by-law

5.—(1) Where a by-law granting a franchise or right in respect of any of the works or services mentioned in subsection 1 of section 3, which has not been assented to by the municipal electors as provided by that subsection, was passed before the 16th day of April, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law hereafter passed with the assent of the municipal electors, as provided by subsection 1 or subsection 3 of section 3, and such consent is necessary, notwithstanding that such last-mentioned by-law is expressly limited in its operation to a period not exceeding one year.

Exceptions
as to
franchises
granted
before 16th
March, 1909

(2) Subsection 1 does not apply to a franchise or right granted by or under the authority of any general or special Act of the Legislature before the 16th day of March, 1909, but no such franchise or right shall be renewed, nor shall the term thereof be extended by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3. R.S.O. 1950, c. 249, s. 5.

6.—(1) Subject to section 2 and except as therein provided Exceptions: and except where otherwise expressly provided, this Act does not apply to a by-law,

- (a) granting the right of passing through the municipality for the purpose of continuing a line, work or system that is intended to be operated in or for the benefit of another municipality and is not used or operated in the municipality for any other purpose except that of supplying gas in a township to persons whose land abuts on a highway along or across which the same is carried or conveyed, or to persons whose land lies within such limits as the council by by-law passed from time to time determines should be supplied with any of such services; works originating in another municipality
- (b) granting the right of passing through the municipality with a line to transmit gas not intended to be distributed from such line in the municipality or only intended to be distributed from such line in the municipality to a person engaged in the transmission or distribution of gas; gas transmission lines
- (c) conferring the right to construct, use and operate works required for the transmission of oil, gas or water not intended for sale or use in the municipality; oil, gas and waterworks
- (d) that is expressly limited in its operation to a period not exceeding one year and is approved by the Ontario Municipal Board; limited to one year
- (e) of a county or township that is approved by the Lieutenant Governor in Council. R.S.O. 1950, c. 249, s. 6; 1954, c. 60, s. 1. counties and townships

(2) Where the by-law within the meaning of clause *d* of subsection 1 is a gas franchise by-law, the Ontario Energy Board shall take the place of the Ontario Municipal Board for the purposes of the clause. 1955, c. 49, s. 3. Gas franchises

7. Where a by-law to which clause *d* of section 6 applies is passed, that clause does not apply to any subsequent by-law in respect of the same works or any part of them or to an extension of or addition to them, although the subsequent by-law is expressly limited in its operation to a period not exceeding one year, and no such subsequent by-law has any force or effect unless it is assented to by the municipal electors as provided by subsection 1 of section 3. R.S.O. 1950, c. 249, s. 7. Extension of one year franchise from year to year prohibited

8.—(1) Notwithstanding any other provision in this Act or any other general or special Act, no person shall construct any works to supply or supply, Approval for construction of gas works or supply of gas in municipality

- (a) natural gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas; or
- (b) gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas and in which gas was then being supplied,

without the approval of the Ontario Energy Board, and such approval shall not be given unless public convenience and necessity appear to require that such approval be given.

Form of
approval

(2) The approval of the Ontario Energy Board shall be in the form of a certificate. 1954, c. 60, s. 2 (1).

Jurisdiction
of Energy
Board

(3) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and to grant or refuse to grant any certificate of public convenience and necessity, but no such certificate shall be granted or refused until after the Board has held a public hearing to deal with the matter upon application made to it therefor, and of which hearing such notice shall be given to such persons and municipalities as the Board may deem to be interested or affected and otherwise as the Board may direct. R.S.O. 1950, c. 249, s. 8 (3); 1954, c. 60, s. 2 (2).

Gas
franchise
by-law to be
approved by
Energy
Board

9.—(1) No by-law granting,

- (a) the right to construct or operate works for the distribution of gas;
- (b) the right to supply gas to a municipal corporation or to the inhabitants of a municipality;
- (c) the right to extend or add to the works mentioned in clause *a* or the services mentioned in clause *b*;
- (d) a renewal of or an extension of the term of any right mentioned in clause *a* or *b*,

shall be submitted to the municipal electors for their assent unless the terms and conditions upon which and the period for which such right is to be granted, renewed or extended have first been approved by the Ontario Energy Board.

Jurisdiction
of Energy
Board

(2) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and may give or refuse its approval.

Hearing to
be held

(3) The Ontario Energy Board shall not make an order granting its approval under this section until after the Board has held a public hearing to deal with the matter upon application therefor and of which hearing such notice shall be given in such manner and to such persons and municipalities as the Board may direct.

(4) The Board, after holding a public hearing upon such notice as the Board may direct and if satisfied that the assent of the municipal electors can properly under all the circumstances be dispensed with, may in any order made under this section declare and direct that the assent of the electors is not necessary. 1955, c. 49, s. 5, *part*.

10. With leave of a judge thereof, an appeal lies upon any Appeal question of law or fact to the Court of Appeal from any certificate granted under section 8 or any order made under section 9 if application for leave to appeal is made within fifteen days from the date of the certificate or order, as the case may be, and the rules of practice of the Supreme Court apply to any such appeal. 1955, c. 49, s. 5, *part*.

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